

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case No. 2:14-cr-00028-KJD-GWF
2:16-cv-02901-KJD

Plaintiff,

V.

ORDER

ALBERT JASON WRIGHT,

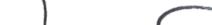
Defendant.

Presently before the Court is Defendant’s Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255 (#36). Essentially, Defendant seeks to be re-sentenced because his “sentence was enhanced under 2k2[.]” Defendant argues that Johnson v. United States, 135 S. Ct. 2551 (2015) invalidated an identical residual clause as that used to enhance his sentence. However, Defendant is factually wrong. While his sentence was enhanced pursuant to U.S.S.G. § 2K2, the enhancement was not based on a residual clause, but upon 2K2.1(b)(4)(A) which increased the offense level by two points because the crime involved a stolen firearm. Further, even if Defendant had been sentenced under the residual clause, Beckles v. United States, 137 S. Ct. 886, 890 (2017) determined that sentences enhanced under “the advisory guidelines are not subject to vagueness challenges under the Due Process Clause.”

22 Accordingly, IT IS HEREBY ORDERED that Defendant's Motion to Vacate, Set Aside
23 or Correct Sentence Pursuant to 28 U.S.C. § 2255 (#36) is **DENIED**;

IT IS FURTHER ORDERED that all other outstanding motions are **DENIED as moot**.

25 | Dated this 30th day of October, 2019.


Kent J. Dawson
United States District Judge